

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

<p>MANUEL ACOSTA, et al.,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>Plaintiffs,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>vs.</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>TYSON FOODS, INC.,</p> <p>d/b/a Tyson Fresh Meats, Inc.,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>Defendant.</p> <p style="text-align: right;">)</p>	<p style="margin-top: 100px;">8:08CV86</p> <p style="margin-top: 100px;">ORDER</p>
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This matter is before the court on the defendant's Motion to Stay Proceedings Pending a Decision by the Judicial Panel on Multidistrict Litigation ([Filing No. 14](#)).¹ The defendant filed a brief ([Filing No. 15](#)) in support of the motion. The plaintiffs filed a brief ([Filing No. 17](#)) related to the motion.

The defendant seeks a stay of this case pending a decision by the Judicial Panel on Multidistrict Litigation (JPML) to consolidate this case with ten others. The defendant filed the motion with the JPML on July 23, 2008, and expects a decision in September. The plaintiffs do not oppose a stay in this case pending the decision, with two conditions not opposed by the defendant. First, the plaintiffs want to retain the ability to continue to file opt-in forms by putative plaintiffs. Second, the plaintiffs would not agree to a prolonged stay. The plaintiffs note if a decision by the JPML is not forthcoming, they will move to lift the stay and proceed in this district.

The power of a district court to stay an action pending on its docket is "incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." [*Landis v. North Am. Co.*](#), 299 U.S. 248, 254 (1936); see [*Lockyer v. Mirant Corp.*](#), 398 F.3d 1098, 1109 (9th Cir. 2005) ("A district court has discretionary power to stay proceedings in its own court

¹As a convenience, this document contains certain cross-document hyperlinks to documents previously filed in this case. This document also contains links to legal citation from the federal reporters. The hyperlinked documents appear in blue underlined text. Except with regard to the local rules, access to the hyperlinked material is subject to fees pursuant to user agreements. The hyperlinks may be accessed without PACER fees by use of the public computer terminal in the Clerk's office.

under *Landis*."); Capitol Indem. Corp. v. Haverfield, 218 F.3d 872, 874 (8th Cir. 2000).

The court finds good cause exists to enter a brief stay in this matter. Upon consideration,

IT IS ORDERED:

1. The defendant's Motion to Stay Proceedings Pending a Decision by the Judicial Panel on Multidistrict Litigation ([Filing No. 14](#)) is granted.
2. Counsel shall file a joint status report concerning the status of this case on **September 30, 2008, and every 30 days thereafter**, such report to include counsel's position(s) concerning whether the stay should continue in effect or whether the stay should be lifted.
3. At any time, if the JPML denies the defendant's motion to transfer, the parties shall have **ten (10) business days** from the date an order is entered on the matter, in which to file a planning report with the court pursuant to Federal Rule of Civil Procedure 26(f).

DATED this 8th day of August, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge